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**2. Highways (§ 166\*)—Power to Regulate—Board of Supervisors.**—In the construction, maintenance, and care of public roads, the county boards of supervisors are a co-ordinate branch of the state, government, as fully as are the common councils of the several cities and town within the state; and the validity of the regulations of such boards is determined by the rules applicable to ordinances passed to protect municipal streets and highways.

[Ed. Note.—For other cases, see Highways, Cent. Dig. §§ 4-57; Dec. Dig. § 166.\* 3 Va.-W. Va. Enc. Dig. 667; 15 Va.-W. Va. Enc. Dig. 232.]

**3. Constitutional Law (§§ 208, 235\*)—Validity of Regulations—Description.**—A regulation of a county board of supervisors as to the use of highways was not invalid as denying the persons to whom it applied the equal protection of the law, or as class legislation and unreasonable, because, in its application, it classified the haulers of lumber, ties, and wood in a class separate from other persons hauling over the road.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. §§ 649-677, 683; Dec. Dig. §§ 208, 235.\* 3 Va.-W. Va. Enc. Dig. 202; 14 Va.-W. Va. Enc. Dig. 235; 15 Va.-W. Va. Enc. Dig. 198.]

**4. Constitutional Law (§ 212\*)—Equal Protection.**—The equal protection clause of Const. U. S. Amend. 14 does not take from the state the power to classify in the adoption of police laws, provided the classification is made on a reasonable basis, though not with mathematical nicety.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. §§ 684, 705; Dec. Dig. § 212.\* 3 Va.-W. Va. Enc. Dig. 202; 14 Va.-W. Va. Enc. Dig. 235; 15 Va.-W. Va. Enc. Dig. 198.]

Appeal from Circuit Court, Spottsylvania County.

Benjamin Polglaise was convicted of violating the road law of Spottsylvania county, and he appeals. Affirmed.

*A. T. Embrey and F. W. Coleman*, both of Fredericksburg, for plaintiff in error.

*The Attorney General and T. S. Coleman*, of Spottsylvania, for the Commonwealth.

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HOBDAY *v.* KANE.

Jan. 16, 1913.

[76 S. E. 902.]

**1. Landlord and Tenant (§ 291\*)—Unlawful Detainer—Notice—Mistake in Date.**—That notice by landlord to tenant to deliver up pos-

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

session on a certain day is dated a month later than the day it is served is a mere inadvertence, not affecting its validity.

[Ed. Note.—For other cases, see *Landlord and Tenant*, Cent. Dig. §§ 1217-1269; Dec. Dig. § 291.\* 6 Va.-W. Va. Enc. Dig. 171; 9 Va.-W. Va. Enc. Dig. 188.]

**2. Landlord and Tenant (§ 291\*)—Unlawful Detainer—Summons.**—The summons in unlawful detainer alleging that defendant is in unlawful possession, and “unlawfully withholds from the said plaintiff, and has unlawfully withheld within three years from the issuing of this writ,” certain premises, is sufficient without insertion of the words “from the plaintiff” after the word “years.”

[Ed. Note.—For other cases, see *Landlord and Tenant*, Cent. Dig. §§ 1217-1269; Dec. Dig. § 291.\* 6 Va.-W. Va. Enc. Dig. 177.]

**3. Landlord and Tenant (§ 291\*)—Unlawful Detainer—Possession—Evidence.**—From evidence that defendant in unlawful detainer had been in possession five years before, and had always refused to give up possession, the jury could infer that she was in possession at the date of the summons.

[Ed. Note.—For other cases, see *Landlord and Tenant*, Cent. Dig. §§ 1217-1269; Dec. Dig. § 291.\* 6 Va.-W. Va. Enc. Dig. 182.]

**4. Landlord and Tenant (§ 291\*)—Unlawful Detainer—Parties.**—Where land in the possession of the vendor's tenant is sold, and a deed thereof is given, the vendee is the proper party to institute the action of unlawful detainer against the tenant.

[Ed. Note.—For other cases, see *Landlord and Tenant*, Cent. Dig. §§ 1217-1269; Dec. Dig. § 291.\* 6 Va.-W. Va. Enc. Dig. 166.]

**5. Principal and Agent (§ 190\*)—Evidence of Agency—Power of Attorney.**—Recordation thereof was not necessary to admission in evidence in unlawful detainer of the power of attorney, under seal, appointing one, who gave notice to defendant to surrender, agent for plaintiff to take charge of the property, and bring suit for its protection.

[Ed. Note.—For other cases, see *Principal and Agent*, Cent. Dig. §§ 718-720; Dec. Dig. § 190.\* 1 Va.-W. Va. Enc. Dig. 248; 6 Va.-W. Va. Enc. Dig. 183.]

**6. Landlord and Tenant (§ 90\*)—Holding Over.**—A tenant suffered by the landlord to remain in possession after expiration of the original term holds over on the terms of the original lease, subject to the same rent and the same covenants.

[Ed. Note.—For other cases, see *Landlord and Tenant*, Cent. Dig. §§ 284-289; Dec. Dig. § 90.\* 9 Va.-W. Va. Enc. Dig. 122-167.]

Error to Circuit Court, York County.

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

Action by James M. Kane against Lucy Hobday. Judgment for plaintiff, and defendant brings error. Affirmed.

*J. N. Stubbs*, of Woods Cross Roads, for plaintiff in error.

*Howard L. Anderson*, of Richmond, for defendant in error.

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LEWELLING et al. v. LEWELLING.

Jan. 16, 1913.

[76 S. E. 903.]

**Judgment (§ 715\*)—Conclusiveness—Matters Concluded.**—Though a bill by the surviving partner for a settlement of the partnership accounts was dismissed on appeal on the ground that the accounts were in such confusion that no proper settlement could be made, that will not preclude the surviving partner, his individual realty having been sold under a mortgage to pay for the firm debts, from proving the sale price as a debt against the partnership; it appearing that the property was sold in a creditor's suit, and that this claim was then allowed against the partnership in a consolidated action which included the creditor's suit and the bill by the surviving partner.

[Ed. Note.—For other cases, see Judgment, Cent. Dig. §§ 1244-1247; Dec. Dig. § 715.\* 1 Va.-W. Va. Enc. Dig. 651.]

Appeal from Circuit Court of City of Elizabeth.

Bill by Thomas L. Lewelling against James Lewelling, administrator, and others. From a decree for complainant, defendants appeal. Affirmed.

*S. Gordon Cumming* and *Sidney J. Dudley*, both of Hampton, and *John W. Friend*, of Newport News, for appellants.

*Lett & Massie* and *Batchelor & Phillips*, all of Newport News, for appellee.

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COMMONWEALTH et al. v. SCHMELZ.

Jan. 16, 1913.

[76 S. E. 905.]

**1 Taxation (§ 273\*)—Assessment—Personal Property of Firm—Situs.**—Code 1904, § 492, provides that firm property shall be listed for taxation by and be taxed to the firm. Section 494 declares that the commissioner shall make a personal application to each person, firm, or corporation residing, doing business, or having an office in

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.